

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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MICHAEL D. BURCH and THE
BANKRUPTCY ESTATE OF MICHAEL
D. BURCH,

NO. CIV. S-04-0038 WBS GGH

Plaintiffs,

v.

O R D E R

REGENTS OF THE UNIVERSITY OF
CALIFORNIA, LARRY VANDERHOEF,
GREG WARZECKA, PAM GILL-
FISHER, ROBERT FRANKS, and
LAWRENCE SWANSON,

Defendants.

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Plaintiffs bring claims against defendants for
violations of Title IX, 20 U.S.C. § 1681 et seq., and 42 U.S.C. §
1983 based on allegations that defendants terminated plaintiff
Michael D. Burch¹ from his position as head wrestling coach at
the University of California at Davis ("UCD") because he opposed
defendants' sex discrimination against female athletes and

¹ The bankruptcy estate of Michael D. Burch is also a
plaintiff in this action because Burch's claims became assets of
that estate when he filed bankruptcy on September 27, 2001. (See
March 16, 2004 Mem. & Order at 2 n.2).

1 publicly advocated on the athletes' behalf.

2 Defendants have filed two separate motions for summary
3 judgment under Federal Rule of Civil Procedure 56. Pursuant to
4 Federal Rule of Procedure 56(f), plaintiffs request that the
5 court (1) delay ruling on defendants' motions for summary
6 judgment so that plaintiffs can obtain outstanding discovery
7 necessary to adequately oppose defendants' motions; (2) reopen
8 deposition discovery so that plaintiffs can conduct depositions
9 relating to newly produced documents, witnesses, and information;
10 and (3) modify the scheduling order in this case so that
11 plaintiffs can complete the requested discovery and then have
12 sufficient time to respond to defendants' motions.

13 Rule 56(f) states that

14 [s]hould it appear from the affidavits of a party
15 opposing [a] motion [for summary judgment] that the
16 party cannot for reasons stated present by affidavit
17 facts essential to justify the party's opposition, the
18 court may refuse the application for judgment or may
order a continuance to permit affidavits to be obtained
or depositions to be taken or discovery to be had or
may make such other order as is just.

19 Fed. R. Civ. P. 56(f) (emphasis added).

20 Having reviewed the parties' briefs and affidavits and
21 considered the arguments and statements therein, the court finds
22 that plaintiffs cannot present facts essential to justify their
23 opposition to defendants' motions for summary judgment, and
24 accordingly the court HEREBY ORDERS that:

25 (1) within 10 days from the date of this order,
26 defendants shall produce the documents requested in plaintiffs'
27 motion to compel, filed May 31, 2005;

28 (2) the discovery deadline in this case is extended to

1 August 26, 2005;

2 (3) plaintiffs may take the depositions of Ron Silva,
3 John Kirkwood, and any other witnesses whose testimony might be
4 relevant to any documents produced or discovery obtained
5 hereafter;

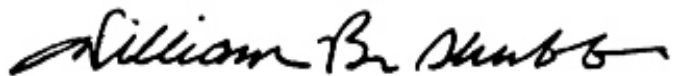
6 (4) defendants' motions for summary judgment are DENIED
7 WITHOUT PREJUDICE, subject to being renewed after the completion
8 of discovery;

9 (5) the deadline for filing motions in this case is
10 EXTENDED to October 10, 2005;

11 (6) the final pretrial conference previously set for
12 August 1, 2005 at 10:00 a.m. is VACATED AND RESET for December 5,
13 2005 at 9:00 a.m.; and

14 (7) the trial date previously set for September 27,
15 2005 at 9:00 a.m. is, VACATED AND RESET for January 24, 2006 at
16 9:00 a.m.

17 DATED: July 22, 2005

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20 WILLIAM B. SHUBB
21 UNITED STATES DISTRICT JUDGE
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